

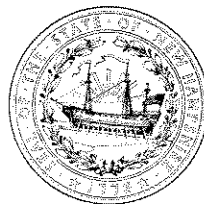
**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

SUBMISSION 654:23

F

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

August 26, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 654:23, a STATUTE related to the effect proper of overseas citizen voting affidavits, most recently amended by Laws of 2003 Chapter 289 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 654:23, a STATUTE related to the effect of proper overseas citizen voting affidavits, most recently amended by Laws of 2003 Chapter 289 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 289 (2003) amending RSA 654:23 is attached (Exhibit 654:23 A)
 - 1. Chapter 209 (1988) amending RSA 654:23 is attached (Exhibit 654:23 B)

2. Chapter 73 (1988) amending RSA 654:23 is attached (Exhibit 654:23 C)
- b) Chapter 436 (1979) recodifying RSA 55-A:07 as RSA 654:23 is attached (Exhibit 654:23 D)
- c) The changes made by amendments to RSA 654:23 are as follows:
 1. Chapter 289 (2003) corrected for gender-neutrality and removed the following phrases from the first sentence of this statute:
 - a. “...*in Canada or Mexico or in any other country...*”
 - b. “...*continental...*”
 2. Chapter 209 (1988) made the following changes:
 - a. Inserted the phrase “...*in Canada or Mexico or in any other country outside the continental United States...*” following the word “*domiciled*” in the first sentence of this statute
 - b. Removed the words “...*and certificate...*” following the word “*affidavit*” in the first sentence of this statute
 3. Chapter 73 (1988) replaced the phrase “*at federal elections...*” with “...*both federal primary and general elections...*” in the this statute
 4. Chapter 436 (1979) recodified RSA 55-A:07 and RSA 55-A:04 as RSA 654:23
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).

- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State's legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 289 (Exhibit 654:23 A). The bill was signed into law (by the Governor) on July 18, 2003, pursuant to New Hampshire Constitution Part Second, Article 44.

- i) Adoption dates:

1. Chapter 289 (2003) adopted July 18, 2003
2. Chapter 209 (1988) adopted April 29, 1988
3. Chapter 73 (1988) adopted April 15, 1988
4. Chapter 436 (1979) adopted June 25, 1979

- j) Effective dates:

1. Chapter 289 (2003) effective September 1, 2003
2. Chapter 209 (1988) effective June 28, 1988
3. Chapter 73 (1988) effective June 14, 1988
4. Chapter 436 (1979) effective July 1, 1979

- k) The changes have been enforced.

- l) The changes affect the entire State of New Hampshire.

- m) The purpose for the changes are as follows:

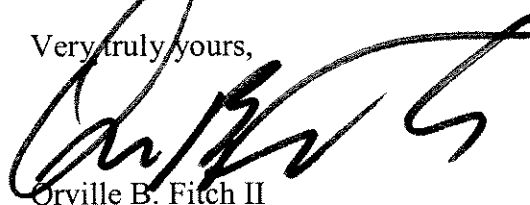
1. The purpose of the Chapter 289 (2003) change is to remove specific reference to Canada and Mexico to clarify the scope of this sections affect and to correct for gender-neutrality
2. The purpose of the Chapter 209 (1988) change is to remove the reference to an absentee certificate as it has been removed from RSA 654:20 (*see submission 654:20*) and to specifically

identify Canada and Mexico as countries where, if a United States citizen resides there, this statute would apply to that citizen's request to vote absentee

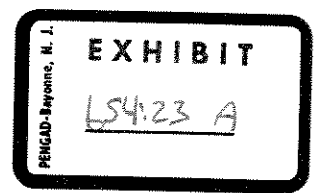
3. The purpose of the Chapter 73 (1988) change is to expand and clarify the scope of this statute to specifically include both federal primary and general elections, as opposed to the previous "federal elections"
 4. The purpose of the Chapter 436 (1979) change is to recodify RSA 55-A:07 as RSA 654:23
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). "(T)he ability of minority groups...to elect their choices to office" will not be diminished. *Beer v. U.S.*, 425 U.S. 130,141 (1976).
- o) None known.
- p) RSA 654:23 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 654:23 E. This submission seeks preclearance of all subsequent changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 654:23 F is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov



CHAPTER 289

HB 627-FN - FINAL VERSION

25mar03... 0694h

25mar03... 0946h

05/22/03 1640s

24jun03... 2155CofC

30jun03... 2316eba

2003 SESSION

03-0294

03/10

HOUSE BILL **627-FN**

AN ACT relative to domicile for voting purposes, penalties for voter fraud, and access to preserved ballots.

SPONSORS: Rep. Drisko, Hills 46; Rep. Lockwood, Merr 35; Rep. Naro, Graf 15; Rep. Whalley, Belk 31; Sen. Roberge, Dist 9

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill:

- I. Establishes civil penalties for wrongful voting.
- II. Modifies procedures for voter registration and absentee voting.
- III. Modifies the laws concerning domicile as it relates to voting and eligibility for office.
- IV. Exempts preserved ballots from RSA 91-A, the right-to-know law.

This bill is a request of committee established by 2002, 15.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25mar03... 0694h

registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate:

I do hereby certify, under the penalties ~~[of perjury]~~ **for voting fraud set forth below**, that I am a ~~[duly-qualified]~~ voter in the town (city, village district, school district) of _____, New Hampshire, that I will be observing a religious commitment which prevents me from voting in person, or that on account of physical disability I am unable to vote in person; that I have carefully read the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the within ballot and sealed it in this envelope.

(Signature) _____

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

289:48 Election Officer. Amend RSA 652:14 to read as follows:

652:14 Election Officer. "Election officer" shall mean any moderator, **deputy moderator, assistant moderator**, town clerk, **deputy town clerk, city clerk, deputy city clerk, ward clerk**, selectman, supervisor of the checklist, **registrar, or deputy registrar** ~~[or inspector of election]~~.

289:49 Voting Rights of Overseas Citizens. Amend RSA 654:3 to read as follows:

654:3 Voting Rights of Overseas Citizens. Notwithstanding any other provision of law to the contrary, any United States citizen being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire, who is domiciled ~~[in Canada or Mexico or in any other country]~~ outside the ~~[continental]~~ United States, shall have the right to register absentee to vote in any federal election in the town or city in New Hampshire in which he **or she** had his **or her** domicile immediately prior to his **or her** departure from the United States, even though he **or she** no longer maintains domicile in said town or city and even though his **or her** intent to return thereto is uncertain, provided:

I. He **or she** complies with all other applicable requirements and qualifications of the state of New Hampshire; and

II. He **or she** is not domiciled and is not registered to vote in any other state or election district of a state or in any territory or possession of the United States; and

III. He **or she** has a valid passport or card of identity issued under the authority of the Secretary of State of the United States.

289:50 General Voter Registration; Forms to be Forwarded. Amend RSA 654:9 to read as follows:

654:9 Forms to be Forwarded. The provisions of this section shall apply in all cities and in all towns. The town or city clerk shall present to the next meeting of the supervisors of the checklist the ~~[triplicate]~~ **voter** registration forms of all persons making application to ~~[him]~~ **the clerk** since the previous meeting of said supervisors.

289:51 General Voter Registration; Action by Supervisors. Amend RSA 654:13, I to read as follows:

I. If the supervisors decide to add the name of the applicant to the checklist, then they shall retain the original of the ~~[triplicate]~~ registration form for their own file, forward one copy to the supervisors of the checklist of the city or town of the applicant's last voting address if said address is in the state of New Hampshire, Vermont, Maine, Massachusetts, Connecticut, or Rhode Island, and send another copy to the clerk of their town or city.

289:52 Overseas Citizens Voting; Effect. Amend RSA 654:23 to read as follows:

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, domiciled ~~[in Canada or Mexico or in any other country]~~ outside the ~~[continental]~~ United States, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit properly executed, cause his *or her* name to be added to the checklist together with a mark or sign clearly indicating that the application has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

289:53 New Section; Right to Know Exemption. Amend RSA 654 by inserting after section 31 the following new section:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

289:54 Absentee Voting: Refusal to Certify, Procedure. Amend RSA 657:16 to read as follows:

657:16 Refusal to Certify; Procedure. If he *or she* refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. *The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit in the return envelope that contains the absentee ballot affidavit envelope. The town or city clerk shall mark the exterior of the absentee ballot affidavit envelope with the words "Not Registered." If the applicant returns the required documents in proper form with the absentee ballot and if the applicant is found to be qualified, he or she shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. If the ballot is returned without the required documents in proper form, the ballot shall be marked and preserved in the manner set forth by law for successfully challenged absentee ballots.* The clerk shall preserve the application *of any applicant who is not registered as a voter* until the time ~~[is]~~ set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction in equity upon such notice as he *or she* may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

289:55 Procedure for Armed Services and Federal Overseas Citizen Voting; Sending Ballots. Amend RSA 657:19 to read as follows:

657:19 Sending Ballots. Upon receipt of a properly executed application for an official armed services absentee ballot or an overseas citizens federal election absentee ballot, whether the form supplied by the secretary of state, the federal post card application, or a written statement containing the information required by RSA 657:4, a town or city clerk shall send the materials provided for in RSA 657:8 or 657:9, as applicable, regardless of whether the applicant appears on the checklist, *and if the applicant requests that the application be considered an application for an absentee ballot for each subsequent election for federal office through the next 2 regularly scheduled general elections, including primaries, for federal office, the town or city clerk shall provide an absentee ballot to the applicant for each such subsequent election.* Whenever an armed services voter *or overseas citizen federal voter* requests a state general election ballot prior to October 1 to be mailed to an address ~~[in Canada or Mexico or in any other country]~~ outside of the ~~[continental]~~ United States, he *or she* shall be sent the same ballot as provided in RSA 656:34. *No town or city clerk shall refuse to accept or process an otherwise valid voter registration application or absentee ballot application submitted by an absent armed services voter or federal overseas citizen voter on the grounds that the application was submitted before the first date on which the state otherwise accepts or processes such applications for that election submitted by absentee voters. A town or city clerk who does not certify a voter registration application or absentee ballot application shall provide the absent armed services voter or federal overseas citizen voter the reason for not certifying a voter registration application or an absentee ballot application.*

[1988

1988]

CHAPTER 73

93

CHAPTER 73 (HB 731)

AN ACT RELATIVE TO APPLICATIONS TO
VOTE FOR OVERSEAS VOTERS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

73:1 Applicability of Affidavit; Absentee Voters. Amend RSA 654:19 to read as follows:

654:19 Execution; Submission; Effect. The absentee registration affidavit shall be executed before a person authorized to perform notarial acts pursuant to the provisions of RSA 456-A. Such officer, after executing the certificate, shall attach thereto proof of his official capacity and shall forward the affidavit and certificate along with the applicant's registration form to the clerk of the town or city named for submission to the supervisors of the checklist. If the supervisors find that the affidavit and certificate are properly executed, they shall follow the procedure for applications made in person as provided in RSA 654:11, 654:13, and 654:15. An affidavit and a certificate which are properly executed shall be considered valid and shall be effective for both a primary and a general election for armed services voters and for absent voters who reside outside the continental United States.

73:2 Effect of Affidavit and Certificate; Overseas Voters. Amend RSA 654:23 to read as follows:

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit and certificate properly executed, cause his name to be added to the checklist together with a mark or sign clearly indicating that the applicant has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

73:3 Limiting Applications Required for Overseas Voters. RSA 657:4 is repealed and reenacted to read as follows:

657:4 Forms. Prior to any state election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded as follows in such quantity as he deems necessary:

I. For the state primary election: Absence (Excluding Absence Due to Residence Outside the Continental United States), Religious Observance, and Disability:

To the city or town clerk of _____
I, _____, hereby apply for an official absentee ballot for the _____ party at the state primary election. I am a duly qualified voter, am registered as a member of the _____ party, (or I am now applying for a _____ ballot), and am entitled to vote in ward _____, city or town of _____. Mail absentee ballot to _____.
Signature _____

Street and Number _____

[1988]

1988]

CHAPTER 75

95

My (non-military) domicile in New Hampshire immediately prior to such service was: street and number _____
city or town _____

Signature of Applicant _____

73:4 Effective Date. This act shall take effect 60 days after its passage.

[Approved April 15, 1988.]

[Effective Date June 14, 1988.]

CHAPTER 74 (HB 755)

AN ACT RELATIVE TO THE GOFFSTOWN POLICE DEPARTMENT.

Be it Enacted by the Senate and House of Representatives in General Court convened:

74:1 Repeal. 1959, 393:1-3, relative to regulating the Goffstown police department, is hereby repealed.

74:2 Effective Date. This act shall take effect 60 days after its passage.

[Approved April 15, 1988.]

[Effective Date June 14, 1988.]

CHAPTER 75 (HB 766)

AN ACT RELATIVE TO UTILITY EASEMENTS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

75:1 Public Utility Easements in Gross not Subdivision. Amend RSA 672:14 to read as follows:

672:14 Subdivision.

I. "Subdivision" means the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

II. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.

III. The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structure which is less than 200 square feet, shall not be construed as a subdivision under this title, and shall not be deemed to create any new division of land for any other purpose.

[1988

1988]

CHAPTER 209

315

CHAPTER 209 (HB 810)

AN ACT RELATIVE TO OVERSEAS VOTERS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

209:1 Reference to Canada and Mexico Added. Amend the introductory paragraph of RSA 654:3 to read as follows:

Notwithstanding any other provision of law to the contrary, any United States citizen being at least 18 years of age as provided in Article 11 of Part First of the Constitution of New Hampshire, who is domiciled in Canada or Mexico or in any other country outside the continental United States, shall have the right to register absentee to vote in any federal election in the town or city in New Hampshire in which he had his domicile immediately prior to his departure from the United States, even though he no longer maintains domicile in said town or city and even though his intent to return thereto is uncertain, provided:

209:2 Overseas Voting; Notarized Certificate Deleted. RSA 654:20 is repealed and reenacted to read as follows:

654:20 Affidavit. Any person qualified to vote as an overseas voter in a city or town as provided in RSA 654:3, because he is domiciled in Canada or Mexico or in any other country outside the continental United States, may apply to the city or town clerk or to the secretary of state for an overseas citizens federal election absentee registration affidavit. Such affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Affidavit

I, _____, do hereby swear or affirm, under penalty of perjury, the following:

- 1) That I am a United States citizen;
- 2) That I have been domiciled in Canada or Mexico or any other country outside the continental United States since _____ (month) (year);
- 3) That I hold a valid passport or card of identity with Registration No. _____ issued by the United States Secretary of State;
- 4) That, immediately prior to my departure from the United States, I was legally domiciled in the state of New Hampshire at the following address:

Street and Number or Rural Route, etc.

City or Town

5) That I will be of the age of 18 years or older on election day, have complied with all applicable qualifications and requirements of the state of New Hampshire, and am entitled to vote in the next subsequent federal election to be held in said state;

6) That I do NOT maintain a domicile, am NOT registered to vote and am NOT voting in any other state, territory, or possession of the United States, or election district thereof;

- 7) That my party affiliation (if any) is _____
- 8) That my permanent address outside the continental United States is:

Street or Route Number

the chief of the bureau of operating a snow traveling or on trails designated as off highway recreational v traveling vehicle trails way recreational vehicles, st. Individuals operating ed to obtain specific land-

the chief of the bureau of or operating a wheeled or on trails designated by icles as wheeled OHRV ls shall be maintained by les and shall be available ed OHRVs on such trails ssion.

ted under subparagraph e landowner. Any individ- ritten landowner permis-

e a Lien or Irrevocable uph XI the following new

owner to an OHRV club, icles, or an individual to n no way be construed as s on said property.

III, IX and X to read as

e in this state any ATV ave a working headlight in operation.

his state any ATV manu- orking brake light on the

his state any ATV manu- th a location on the front istration plates or decals,

s after its passage.

City, Province, Country _____

9) That I hereby make application for the addition of my name to the checklist of _____, New Hampshire, as an overseas citizen living outside the continental United States entitled to vote in any federal election held therein.

Signature of Applicant _____

Date _____

209:3 Overseas Voters; Certificate Deleted. Amend RSA 654:21 to read as follows:

654:21 Forwarding. Each such affidavit shall be directly forwarded to the applicant by the city or town clerk or by the secretary of state.

209:4 Overseas Voters; Certificate Deleted. Amend RSA 654:23 to read as follows:

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, domiciled in Canada or Mexico or in any other country outside the continental United States, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit properly executed, cause his name to be added to the checklist together with a mark or sign clearly indicating that the application has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizens absentee ballot at both federal primary and general elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

209:5 Reference to Federal Post Card Application Added. Amend RSA 657:6 to read as follows:

657:6 Procedure by Applicant. An application form for an absentee ballot shall be mailed or delivered to any person who applies therefor to the secretary of state or to any town or city clerk. It shall be filled out by the applicant and sent to the clerk of the town or city in which he desires to vote. Alternatively, a person may apply for an official absentee ballot by sending to said clerk a written statement containing the information required by the appropriate paragraph of RSA 657:4, or by the federal post card application.

209:6 Overseas Voters; Affidavit Required. Amend RSA 657:8 to read as follows:

657:8 Overseas Voting. Prior to any federal election, the secretary of state shall prepare the following forms in such quantity as he deems necessary:

I. Overseas citizens federal election absentee ballots as provided in RSA 656:34 for citizens who are domiciled in Canada or Mexico or in any country outside the continental United States.

II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the following:

(a) For Voters Who Are Registered.

Overseas Citizen. A person desiring to vote by overseas citizens federal election absentee ballot who is a registered voter in the town or city in which he desires to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties of perjury that I am a duly qualified overseas citizen voter registered as such in the city or town of _____, New Hampshire; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the overseas citizens federal election ballot

1988]

herein e
envelop
because

(b)
zens fed
city in v

I do h
seas vot
and that
followin

I am r
in this e

III.

209:7.
RSA 65
(b)
ballot w
out and

I do her
voter ur
age and
my dom

any stat

209:8
657:12 t

657:12
applicat
tary of
taining
town or
the tow
material
in RSA

209:9
ing RSA

Pr

209:10
Added.

657:19
official
absente
post car

by RSA 657:4, a town or city clerk shall send the materials provided for in RSA 657:8 or 657:9, as applicable, regardless of whether the applicant appears on the checklist. Whenever an armed services voter requests a state general election ballot prior to October 1 to be mailed to an address in Canada or Mexico or in any other country outside of the continental United States, he shall be sent the same ballot as provided in RSA 656:34.

209:11 Federal Post Card Applications. Amend RSA 657 by inserting after section 19 the following new section:

657:19-a Federal Post Card Application. An armed services voter or federal overseas citizen voter who is domiciled in Canada or Mexico or in any other country outside the continental United States qualified to vote in New Hampshire may request an absentee ballot by completing a federal post card application form provided by the United States government, and sending it to the town or city clerk of his last domicile. The applicant may request an absentee ballot for all elections in which he is qualified to cast a ballot during the calendar year.

209:12 Reference to Overseas Citizens Federal Election Absentee Ballots Added; Notary Requirements Deleted. Amend RSA 657:20 and 21 to read as follows:

657:20 Procedure by Voter. After marking his ballot, an armed services voter or a federal overseas citizen voter shall seal the same in the affidavit envelope. If he is a registered voter, he shall execute the appropriate affidavit and return the ballot as hereinafter provided. If the voter is not registered in the town in which he desires to vote, he shall execute the appropriate affidavit. If the armed services voter or federal overseas citizen voter, because of blindness or other physical disability, is unable to mark his ballot, an official empowered to administer oaths may assist him to mark his ballot as directed by the voter. The official shall then certify on the outside thereof that it was marked with his assistance and shall thereafter give no information regarding the same. Having executed the affidavit, the voter shall enclose and seal said envelope in the return envelope. He shall then endorse thereon his name, address and voting place and shall mail the envelope or personally deliver it to the city or town clerk from whom it was sent.

657:21 Registration of Voters. Upon receipt of a return envelope containing an armed services or overseas citizen federal election absentee ballot, the clerk of the city or town shall open and retain said envelope and deliver the affidavit envelope to the supervisors of the checklist of the voting place indicated thereon. If the voter is not registered, the appropriate affidavit appearing on said envelope, if properly executed, shall be prima facie evidence of the voter's qualifications to become a voter and his name shall be added to the checklist. The supervisors of the checklist shall then return the affidavit envelopes unopened to the city or town clerk who shall see that they agree in number with the mailing envelopes. Said clerk shall attach the application for an armed services or overseas citizen federal election absentee ballot submitted by said voter to the 2 corresponding envelopes and retain them until election day.

209:13 Repeal. RSA 654:22, relative to executing affidavits and certificates for overseas voters, is repealed.

209:14 Effective Date. This act shall take effect 60 days after its passage.

[Approved April 29, 1988.]

[Effective Date June 28, 1988.]

*Be it E
conve*

210:1

318:9

I. T
board ir
responsi
board ar
perform
solely re
II. T
services
of the g
macy fu

210:2
as follow

(c)
(d)
licensee
(e)
tion in t

210:3
lows:

VII.
cluding :

210:4

I. T
ending
ated to
said sun

II. T
from an

210:5

I. Se
II. S

[Approv
[Effectiv
4 of this

provided in RSA 654:3 may apply to the city or town clerk or to the secretary of state for an overseas citizens federal election absentee registration affidavit. Such affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

Affidavit

I, _____, do hereby depose as follows:
1) That I am a United States citizen;

2) That I have been domiciled outside the United States since _____.

	(month)	(year)
1990	1	1
1991	1	1
1992	1	1
1993	1	1
1994	1	1
1995	1	1
1996	1	1
1997	1	1
1998	1	1
1999	1	1
2000	1	1
2001	1	1
2002	1	1
2003	1	1
2004	1	1
2005	1	1
2006	1	1
2007	1	1
2008	1	1
2009	1	1
2010	1	1
2011	1	1
2012	1	1
2013	1	1
2014	1	1
2015	1	1
2016	1	1
2017	1	1
2018	1	1
2019	1	1
2020	1	1
2021	1	1
2022	1	1
2023	1	1
2024	1	1
2025	1	1
2026	1	1
2027	1	1
2028	1	1
2029	1	1
2030	1	1
2031	1	1
2032	1	1
2033	1	1
2034	1	1
2035	1	1
2036	1	1
2037	1	1
2038	1	1
2039	1	1
2040	1	1
2041	1	1
2042	1	1
2043	1	1
2044	1	1
2045	1	1
2046	1	1
2047	1	1
2048	1	1
2049	1	1
2050	1	1
2051	1	1
2052	1	1
2053	1	1
2054	1	1
2055	1	1
2056	1	1
2057	1	1
2058	1	1
2059	1	1
2060	1	1
2061	1	1
2062	1	1
2063	1	1
2064	1	1
2065	1	1
2066	1	1
2067	1	1
2068	1	1
2069	1	1
2070	1	1
2071	1	1
2072	1	1
2073	1	1
2074	1	1
2075	1	1
2076	1	1
2077	1	1
2078	1	1
2079	1	1
2080	1	1
2081	1	1
2082	1	1
2083	1	1
2084	1	1
2085	1	1
2086	1	1
2087	1	1
2088	1	1
2089	1	1
2090	1	1
2091	1	1
2092	1	1
2093	1	1
2094	1	1
2095	1	1
2096	1	1
2097	1	1
2098	1	1
2099	1	1
2100	1	1
2101	1	1
2102	1	1
2103	1	1
2104	1	1
2105	1	1
2106	1	1
2107	1	1
2108	1	1
2109	1	1
2110	1	1
2111	1	1
2112	1	1
2113	1	1
2114	1	1
2115	1	1
2116	1	1
2117	1	1
2118	1	1
2119	1	1
2120	1	1</

3) That I hold a valid passport or card of identity with registration No. _____ issued by the United States Secretary of State;

4) That, immediately prior to my departure from the United States, I was legally domiciled in the state of New Hampshire at the following address.

Street and Number or Rural Route,
etc.

City or Town _____

5) That I will be of the age of 18 years or older on election day, have complied with all applicable qualifications and requirements of the state of New Hampshire, and am entitled to vote in the next subsequent federal election to be held in said state:

6) That I do NOT maintain a domicile, am NOT registered to vote and am NOT voting in any other state, territory, or possession of the United States, or election district thereof:

7) That my party affiliation (if any) is _____

8) That my permanent address outside the United States is:

Street or Route Number

City, Province, Country

9) That I hereby make application for the addition of my name to the checklist of _____, New Hampshire, as an overseas citizen entitled to vote in any federal election held therein.

Signature of Applicant

II. There shall be printed below the affidavit described in the preceding section the following certificate:

Certificate

I, _____, the undersigned officer, do hereby certify that on the _____ day of _____, 19____, the above named, _____, having satisfied me as to his identity, subscribed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Officer _____

Title

654:21 Forwarding. Each such affidavit and certificate shall be directly

forwarded to the applicant by the city or town clerk or by the secretary of state.

654:22 Execution of Affidavit and Certificate. Such affidavit shall be executed before a person authorized to perform notarial acts pursuant to the provisions of RSA 456-A. Such officer, after executing the certificate, shall attach thereto proof of his official capacity and shall forward the affidavit and certificate to the clerk of the town or city named for submission to the supervisors of the checklist.

654-23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit and certificate properly executed, cause his name to be added to the checklist together with a mark or sign clearly indicating that the applicant has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizen absentee ballot at federal elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

Voters in Unincorporated Places

654:24 Registration. Inhabitants of unincorporated places shall register to vote as provided in RSA 668.

Checklists: All State Elections

654:25 Preparing Checklist. The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which is to be maintained and updated by the supervisors. The secretary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections.

654:26 Posting Checklist. The supervisors shall make and post copies of the current checklist at 2 or more public places in town at least 30 days before the day of any state election.

654:27 Sessions for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on at least 2 occasions before any state election, the last of which shall be on the Saturday 10 days prior to the election, at which all hearings shall be finally closed. The first session shall be on the third Tuesday preceding the day of election and shall take place between 6:00 p.m. and 9:00 p.m. and shall be adjourned to any hour day or days at the same time as will permit all claims to be decided. Notice of the day, hour and place of each session of the supervisors shall be given upon the checklists first posted and published in a newspaper of general circulation in the city or town prior to each such session. The reconvening of any session will be adjourned shall not require the publication of notice.

PENGAD-Dawarra M. I.

EXHIBIT

65423 D



U.S. Department of Justice

Civil Rights Division

EXHIBIT

654:23 E

JDR:RPL:SMC:jdh
DJ 166-012-3
2004-2563
2004-2581
2004-2582

Voting Section - NWB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

June 22, 2004

Orville B. Fitch II, Esq.
Assistant Attorney General
Civil Bureau
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

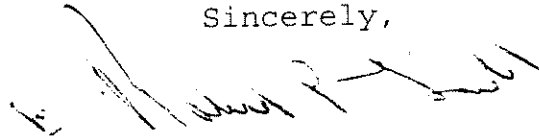
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

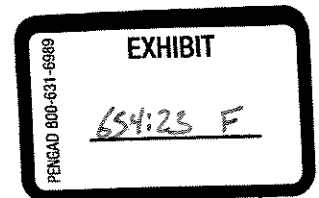
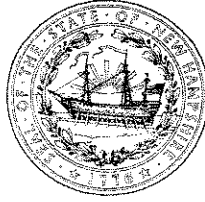
A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich
Chief, Voting Section

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov